

In the Matter Of:

Case No.: 1:21-cv-502(LGS)(GWG)

EDELMAN

v.

NYU LANGONE HEALTH SYSTEM, et al.

Deposition of Joshua Swirnow

Tuesday, November 9, 2021

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
Case No.: 1:21-cv-502 (LGS) (GWG)

-----X
DR. SARI EDELMAN,

Plaintiff,

-against-

NYU LANGONE HEALTH SYSTEM, NYU LANGONE HOSPITALS,
NYU LANGONE MEDICAL CENTER, NYU LANGONE NASSAU
RHEUMATOLOGY, NYU SCHOOL OF MEDICINE, NYU
GROSSMAN SCHOOL OF MEDICINE, NYU HOSPITALS
CENTER, ANDREW T. RUBIN, DAVID KAPLAN,
JOSEPH ANTONIK AND JOSHUA SWIRNOW,

Defendants.

-----X

November 9, 2021
10:00 a.m.

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Examination before Trial of DEFENDANT,
JOSHUA SWIRNOW, held pursuant to Notice, held
via Zoom conference, before Ruthayn Sgaglio, a
Notary Public of the State of New York.

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2 A P P E A R A N C E S :

3 MILMAN LABUDA LAW GROUP, PLLC
4 Attorneys for Plaintiff
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8 Attorneys for Defendants
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ALSO PRESENT:

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Daniel T. Driesen, Esq.

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2 IT IS HEREBY STIPULATED AND AGREED, by
3 and between the attorneys for the respective
4 parties hereto, that this examination may be
5 sworn to before any Notary Public.

6

7 IT IS FURTHER STIPULATED AND AGREED that
8 the sealing and filing of the said examination
9 shall be waived.

10

11 IT IS FURTHER STIPULATED AND AGREED that
12 all objections to questions except as to form
13 shall be reserved for trial.

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1 J. Swirnow

2 A Again, I'm not sure I understand the
3 question.

4 Q Was she paid hourly, did she receive an
5 annual salary, or was it some other basis?

6 A She had a salary that was variable based
7 on her productivity.

8 Q Did you have any role in drafting the
9 employment agreement?

10 A Yes.

11 Q What role was that?

12 A Providing the terms of the compensation
13 and productivity terms.

14 Q How did you determine Dr. Edelman's
15 starting salary?

16 A As I mentioned earlier, it was based on
17 the business plan that was done on her practice
18 prior to her time with NYU.

19 Q Were there any other factors other than
20 the business plan that played a role in determining
21 her starting salary?

22 MR. STEER: Objection to form.

23 A Repeat that, please.

24 MR. KATAEV: Read it back, please.

25 (Whereupon, the referred to question was read back

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1 J. Swirnow

2 with the complete question, please?

3 MR. KATAEV: I will rephrase it.

4 BY MR. KATAEV:

5 [REDACTED]

[REDACTED]

[REDACTED], correct?

8 A Yes.

9 Q To your knowledge, how was a determination
10 made to set Dr. Edelman's annual wRVU target?

11 A It was based on what she was producing in
12 her private practice.

13 Q To your knowledge, if you did not have to
14 factor in the loans that she had and assumption of
15 the lease obligation that she had, how, if in any
16 way, would her compensation be different?

17 MR. STEER: Objection to form.

18 A I don't know specifically.

19 Q Would she have been entitled to receive
20 more in compensation annually?

21 A If she didn't have the loans, then that
22 would have changed the business plan and the
23 compensation she was generating in her practice.

24 Q Would that have changed the number of
25 RVUs?

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J. Swirnow

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██████████
██████████
██████████
██████████

██████████

██████████

, correct?

6

A That's what the contract says, yes.

7

Q What type of role did Dr. Goldberg serve
as the clinical director of Nassau Rheumatology?

9

MR. STEER: Objection to form.

10

A I'm not sure what you're asking.

11

Q What were his duties as the clinical
director?

13

A They should be defined in the contract.

14

Q To your knowledge, why was Dr. Goldberg
offered this administrative role?

16

A I don't recall.

17

Q Did you negotiate this contract with
Dr. Goldberg?

19

A I don't recall.

20

Q Dr. Goldberg's RVU target pursuant to this
contract is only █████ wRVUs per year, correct?

22

A That's what the contract says, yes.

23

Q It's based on the page Bates-stamped

24

D 795. █████

██████████, correct?

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1 J. Swirnow

2 A Yes.

3 Q Even when Dr. Edelman's salary was
4 increased [REDACTED]

[REDACTED] ; is that right?

7 A I don't believe the numbers you quoted are
8 accurate, but the contract would reflect whatever
9 the terms were.

10 MR. KATAEV: Let the record reflect we are
11 going to back to Plaintiff's Exhibit 9, page
12 Bates-stamped D 59.

13 [REDACTED]
[REDACTED], correct?

15 A Yes.

16 [REDACTED],
17 correct?

18 A Correct.

19 Q Going back to Plaintiff's Exhibit 20,

20 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]